

HOUSE BILL NO. 444

INTRODUCED BY D. KOTTEL

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A CONTRACTOR WHO ENTERS INTO A CONTRACT FOR CERTAIN SERVICES WITH A COUNTY OR MUNICIPAL GOVERNMENT TO PAY THE STANDARD PREVAILING WAGE IF LABOR SUPPLIED AS PART OF THE SERVICES UNDER THE CONTRACT HAS THE ULTIMATE EFFECT OF REPLACING COUNTY OR MUNICIPAL EMPLOYEES; AMENDING SECTION 7-5-4301, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Service contract requirement. Except as provided in 7-5-2304, a contractor that enters into a contract for services with a county that has or ultimately will have the effect of replacing any employee of the county with labor supplied as part of the services under the contract shall pay the standard prevailing wage, as defined in 18-2-401, to each individual in the contractor's employ who performs any portion of the contracted service.

NEW SECTION. Section 2. Service contract requirement. Except as provided in 7-5-4303, a contractor that enters into a contract for services with a municipality that has or ultimately will have the effect of replacing any employee of the county with labor supplied as part of the services under the contract shall pay the standard prevailing wage, as defined in 18-2-401, to each individual in the contractor's employ who performs any portion of the contracted service.

Section 3. Section 7-5-4301, MCA, is amended to read:

"7-5-4301. Power to enter and execute contracts. (1) ~~A~~ Subject to the provisions of [section 2], a city or town is authorized to make any contracts necessary to carry into effect the applicable powers granted by this chapter and to provide for the manner of executing the contracts.

(2) (a) All necessary contracts for professional, technical, engineering, or legal services are excluded from the provisions of 7-5-4302 through 7-5-4304, 7-5-4306, and 7-5-4307. However, contracts in which the value of the majority of the services to be rendered constitute services other than professional, technical, engineering,

or legal services must be awarded under the bidding procedure provided for in 7-5-4302 through 7-5-4304, 7-5-4306, and 7-5-4307.

(b) (i) Except as provided in subsection (2)(b)(ii), supervision over or operation of a physical plant that provides water, sewer, or power services to a municipality does not constitute a service excluded under the provisions of subsection (2)(a).

(ii) A city, town, or municipality may extend, renew, or amend a contract or series of contracts for the supervision or operation of a physical plant that provides water, sewer, or power services without proceeding under the bidding procedure provided for in 7-5-4302 through 7-5-4304, 7-5-4306, and 7-5-4307 if:

(A) one or more of the contracts were awarded to the entity in accordance with the competitive bidding procedures provided in 7-5-4302 through 7-5-4304, 7-5-4306, and 7-5-4307; ~~and~~

(B) the entity has provided the services to the city, town, or municipality for the immediately preceding 5-year period; and

(C) the entity complies with the provisions of [section 2]."

NEW SECTION. Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 7, chapter 5, part 23, and the provisions of Title 7, chapter 5, part 23, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 7, chapter 5, part 43, and the provisions of Title 7, chapter 5, part 43, apply to [section 2].

NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2009.

- END -